

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

RAFER BOWMAN	§	
VS.	§	CIVIL ACTION NO. 1:22-CV-270
CORR HEALTH, <i>et al.</i> ,	§	

MEMORANDUM OPINION AND ORDER OVERRULING OBJECTIONS AND  
ADOPTING REPORT AND RECOMMENDATION

Plaintiff, Rafer E. Bowman, an inmate formerly confined at the Jester III Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Defendants Corr Health, Nurse Angelica Gay, Lieutenant FNU Manard, James Davis, and P A Kent Sims.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends dismissing this complaint for want of prosecution pursuant to Federal Rule of Civil Procedure 41(b) [Dkt. 10].

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the records, and pleadings. Plaintiff filed Objections to the Report and Recommendation of United States Magistrate Judge [Dkt. 10], in addition to several notices [Dkts. 13, 15, 17]. This requires a *de novo* review of the objections in relation to the pleadings and applicable law. *See* FED. R. CIV. P. 72(b).

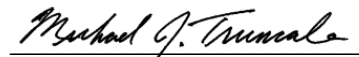
This civil action was filed on June 24, 2022, while Plaintiff was incarcerated with the Texas Department of Criminal Justice [Dkt. 1]. On July 5, 2022, the magistrate judge ordered Plaintiff to pay an initial partial filing fee of \$26.66 within 30 days of entry of the order [Dkt. 7]. Plaintiff acknowledged receipt of the order on July 20, 2022 [Dkt. 9]. Receiving no response from Plaintiff nor payment of the initial partial filing fee, the magistrate judge entered the Report and Recommendation, recommending the civil action be dismissed for want of prosecution pursuant to

Federal Rule of Civil Procedure 41(b) [Dkt. 10]. In his objections and notice filed September 29, 2022, and September 30, 2022, respectively, Plaintiff stated he completed the appropriate forms with TDCJ to request withdrawal of the funds to pay the initial partial filing fee [Dkt. 13]. Plaintiff also indicated he would have his family pay the filing fee. *Id.* The court received another notice from Plaintiff on October 20, 2022, indicating he sent a check in for \$300.00 and also inquiring into what payments have been received [Dkt. 15]. The Clerk of Court mailed Plaintiff a copy of the docket sheet on November 1, 2022, to show that no payments have been received. In addition, the Clerk of Court called the Southern District of Texas, where this case originated, to inquire as to whether that office received any portion of the filing fee. The Clerk of Court for the Eastern District of Texas confirmed that no filing fee had been received by the Southern District. On November 16, 2022, Plaintiff filed another notice stating again that he sent in a check for \$300.00 and inquiring into the status of his case [Dkt. 17]. On December 16, 2022, Plaintiff filed a Notice of Change of Address, informing the court he was released from TDCJ [Dkt. 18]. On April 6, 2023, the magistrate judge then ordered the Clerk of Court to mail Plaintiff a form application to proceed *in forma pauperis* for a non-prisoner [Dkt. 19]. The order gave Plaintiff 30 days to re-file his *in forma pauperis* application. *Id.* Plaintiff then filed another Notice of Change of Address on May 15, 2023, informing the court he was now detained at the Jefferson County Correctional Facility [Dkt. 20]. On June 5, 2023, the magistrate judge then ordered the Clerk of Court to mail Plaintiff an application to proceed *in forma pauperis* for prisoners, and gave Plaintiff another 30 days to re-file his application along with a certified income trust statement for the preceding six month period [Dkt. 22]. Plaintiff received a copy of that order on June 9, 2023 [Dkt. 23]. More than ample time has passed, yet Plaintiff has failed to pay any portion of the filing fee or a new application to proceed *in forma pauperis*. Plaintiff has failed to comply with this court's orders.

ORDER

Accordingly, petitioner's objections are OVERRULED. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is ADOPTED. A Final Judgment will be entered in accordance with the recommendations of the Magistrate Judge.

**SIGNED** this 10th day of October, 2023.

A handwritten signature in black ink, reading "Michael J. Truncala", is written above a horizontal line.

Michael J. Truncala  
United States District Judge